



COUNTY OF ELBERT

COMMUNITY & DEVELOPMENT SERVICES DEPARTMENT

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MINUTES ELBERT COUNTY PLANNING COMMISSION MEETING January 10, 2013

Note: These meeting minutes are only a summary of the meeting. Duplications of the audio recording are available, for a fee, by contacting Community & Development Services.

The regular Planning Commission Meeting was called to order at 7:00 p.m. by Chairman, Grant Thayer.

PLEDGE OF ALLEGIANCE

ROLL CALL:

Commission members present: Tom Beshore, Mike Bingham, Paul Crisan, Dave Hoos, Mike Kelley, Paula Koch, Sue Link, Susan Saint Vincent and Grant Thayer.

Staff present: Richard L. Miller, Director; Curtis Carlson, Senior Planner; Carolyn Parkinson, Planner; Faith Mehrer, Administrative Assistant

STAFF REPORT ON BOARD OF COUNTY COMMISSIONERS ACTION(S):

A. There were no land use items heard by the BOCC since the last Planning Commission Meeting.

CONSENT CALENDAR:

A. Paula Koch made a motion to approve the meeting minutes from the October 25, 2012 and November 8, 2012 Planning Commission Hearings. Susan Saint Vincent seconded the motion. Motion carried 7 to 0.

COMMUNITY INPUT:

PUBLIC HEARINGS:

A. Oil and/or Gas Operations – Special Use Permit and Memorandum of Understanding.

- a. Richard Miller presented a proposal for an amendment to the Zoning Regulations for Oil and Gas Development. The Proposed Amendment would require Oil and/or Gas Production Companies to obtain an Oil and Gas Development Permit for any Oil and Gas Facility. An Oil and/or Gas Development Permit would be obtained by following one of two Special Use Review Processes; the Standard Special Use Review Process or the Administrative Special Use Review Process. He explained that the purpose of the proposed amendment is to secure stringent Best Management Practices for Oil and Gas companies to follow that would protect the citizens of Elbert County, preserve the rights of property and mineral rights owners in the County and, in cases where a Memorandum of Understanding is negotiated, create an expedited process for a Minor Oil and Gas facility. The Best Management Practices within the standard MOU include: increased setbacks from water well heads, water bodies and property boundaries; increased notification requirements; submission of haul routes, access points and timelines, a site plan and reclamation plans; requirement for steel containment berms; guidelines for waste and production water handling; requirement for vapor recovery units or oxidizer units for new wells; water well sampling within 1 mile; requirement to identify abandoned oil or gas wells within 1 mile; development of a Responsible Products Program for management of the fluid products used for fracturing and localized water supply to reduce road impacts (when possible). Currently, the only Process available is the Standard Special Use Review Process which is time consuming and can be discouraging to Oil and Gas companies that want to operate in Elbert County. With an option to negotiate an MOU, the County can expedite the process for Oil and Gas companies to begin drilling, while still securing the Best Management Practices that are important to Elbert County's residents, by creating an Administrative Special Use Review Process that is not currently available. Eligibility for an Administrative Special Use Review Process would only be available to Minor Oil and Gas Facilities. A Minor Oil and Gas Facility is defined as: A well pad with one or more wells, intermediate lines from a wellhead, storage tanks, tank batteries, gathering flow lines, ancillary equipment, temporary storage and seismographic or other exploratory testing. If an Oil and Gas company declines to negotiate an MOU with the County for their Minor Facility, they would be expected to use the Standard Special Use Review Permit process. In this case, the COGCC Regulations would apply. Major Oil and Gas facilities are not eligible for an Administrative Special Use Review and would be subject to the Standard Special Use Review Process. A Major Oil and Gas Facility is defined as: a facility that consolidates,**

markets or transports production or production fluids from a Minor Facility, storage and construction staging yards exceeding 6 months, worker camps, or any Oil and/or Gas Facility that does not meet the definition of a Minor Oil and/or Gas Facility. The proposed amendment, if approved, would become Part II, Section 26 of the Elbert County Zoning Regulations.

- b. Grant Thayer opened the Public Comment portion of the meeting.**
- c. Brooks Imperial asked CDS to identify the source of authority for the Best Management Practices that are outlined in the Standard MOU and asked what the differences between Elbert County's MOU and the Standard COGCC Regulations.**
- d. Rick Morgan displayed an illustration showing the properties in Elbert County that would not be available for development of oil and/or gas by his determination of the current proposed setback requirements from well heads or water courses. He suggested that Elbert County let the COGCC handle these setback requirements. He also expressed concern over the length of the document that details the Best Management Practices that would be in the Standard MOU, comparing it with El Paso County's Best Management Practices, stating that he felt Elbert County has fallen short of the mark.**
- e. Grant Thayer asked, referring to the requirement to have 1000 feet between the wellhead and any water body, if stock tanks are subject to this setback. He stated that the requirement needed further definition.**
- f. Mike Kelly asked what the 1320 foot setback for wellheads from residential structures would mean for future building. If a well is placed on a parcel before buildings are built on a plot of land, would it create, for the ¼ mile radius surrounding the well head, a no build zone for future building? Creating such a no build zone would make the land virtually un-sellable in the future.**
- g. Rick Blotter stated that he appreciates the work of the Planning Commission and Editing Committee concerning the Regulations for Gas and Oil production in Elbert County. He is supportive of the 1320 foot setback from residences. He feels we need strict regulations and that heavy industry should be confined to areas that are away from residences for health and safety reasons. He suggested that Elbert County include compensation for Air Quality Monitoring in the Regulations. He closed by showing a slide of an aerial view of Weld County with its many wells scattered about in residential areas.**

- h. Larry Seltzer, a chemist in the mining industry, voiced concern about fracing. He asked if Elbert County can afford the 5 million gallons of water that it will take to fracture each well. He mentioned the use of portable distillation plants for frac water.**
- i. Carolyn Parkinson read a letter from John Campbell of Southwestern Energy into the record. The letter stated that the Standard Special use process is onerous, time consuming and costly for the County. He is supportive of the proposed MOU being added to the State drilling permit as additional ‘conditions of approval’. He encouraged Elbert County, the Planning Commission and the Board of County Commissioners to continue the process of developing a better process by working with the industry to create a set of Best Management Practices that would be agreed upon in an MOU.**
- j. Nancy Prince, the Local Government Liaison for the COGCC expressed that the COGCC shares the County’s concern for ensuring a state of health and welfare for the citizens. She said that she has been discussing the changes in the Draft Regulations that the Attorney General would like to see, with Richard Miller. She stated that the current COGCC regulations require 500’ from residences, 1000 from schools, nursing homes and hospitals. She went on to say that on Monday, the COGCC approved a ground water monitoring program to establish the pre drilling condition of ground water. Any time a well is proposed the operator has to sample all water services within a one half mile radius, up to maximum of four. If more than four exist within the designated area, there are criteria for choosing the water services that would be tested including; testing from different aquifers if they exist, and up gradient and down gradient testing when possible. The ground water monitoring program has three sampling times; one before the well is drilled, one that would take place approximately 18 months after drilling and one that would take place five to six years after drilling.**
- k. Mike Kelley asked what the mitigation plan would be, should there be a change in the status of the water monitoring test results. Nancy replied that the mitigation process would be dependant on problem is. She stated that one form of recourse for the operators is that there are fines that can be imposed on Oil and Gas companies if water contamination occurs.**
- l. Tom Beshore asked if building after a well was drilled on an otherwise vacant property would be effected by the current setbacks for residences; would property owners be subject to the setback if they chose to build a residence on a property with an existing well. Richard Miller stated that we would need to decide what is appropriate for Elbert County and include that in our Regulations.**

- m. Paula Koch asked if, when drilling horizontally, the ground water monitoring would apply. Nancy replied it would apply to all wells.**
- n. Dave Macintyre asked how, if horizontal fracturing allows operators to drill down through more than one aquifer and then out 2 for two miles, will the water monitoring program protect his well. He further stated that it seems like the residents pay a higher price than simply a fine enforced by the COGCC if an aquifer is contaminated by an operator. While the operator loses money, the residents have lost their water. What is a residents' recourse?**
- o. Bev Blotter stated that she feels that COGCC does not want small communities to have much of a say in the Regulations regarding Oil and Gas Production where they live. She reminded the Planning Commission that Government is for the People and by the People. She encouraged the Planning Commission to work with COGCC but to continue to try to create policies that are for the People. She commends the effort put in to creating a committee to help with these rules and policies, and for not leaving the Regulations solely in the hands of the State.**
- p. Richard Miller responded to Brooks Imperial's earlier questions. He stated that the Sources that were used to create a list of BMP's were MOU's that had been established by various surrounding Jurisdictions. These MOU's were reviewed, and from the information within them, BMP's appropriate for Elbert County's Standard MOU were drafted with the help of the Editing Committee. Answering his question about the differences between the guidelines of Elbert County's MOU and the COGCC Requirements, Richard stated that Elbert County's MOU contains more stringent BMP's, the setbacks are greater and the requirements for water testing covers a greater area surrounding the well head in comparison with COGCC Regulations.**
- q. The Planning Commission members discussed some of the areas in the MOU that they felt should be further reviewed before approving the proposal.**
- r. Grant Thayer suggested that the Community & Development Services Department host a meeting with the Editing Committee on Tuesday, January 15th and then a Planning Commission Workshop on January 24th to address improvements that need to be made in the Regulations. The Planning Commission Members agreed.**

UNFINISHED BUSINESS:

NEW BUSINESS:

ANNOUNCEMENTS:

The meeting adjourned at 10:42 pm.